



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Adjudicate

Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)

Process Number

O.3.2 _____

1. Process Definition *Provide an overview of the process and define its starting and ending points*

1.1 Starts With	Receipt of the probate file.
1.2 Process Overview	<p>Probate staff prepares a Probate file and transfers it to the Office of Trust Adjudication. Office of Trust Adjudication reviews the probate file and makes a preliminary determination if the probate can be done based on the record. If it appears that the case can be adjudicated on the record, it is recommended for a records based probate. If there are questions of fact or law then a hearing is scheduled.</p> <p>When the case has been probated, either from a decision based on the record or a hearing, and the appeal period has expired the case is transferred to the LTRO and all agencies where the decedent had trust/restricted assets with distribution instructions for ownership changes and funds distributions.</p> <p>Identify problems with this process that may be resolved through BRDM (B.5.1 Conduct Outreach Activities and B.5.2 Post Outreach Activities). Provide support and/or participate in outreach activities.</p>
1.3 Stops With	No appeals are filed and the decision becomes final.

2. Trust Business Objectives *Identify the Comprehensive Trust Management Plan strategic goals and business objectives to which this process contributes.*

Goal/Objective
2.1 Expand self-governance compacts and self-determination contracts. Foster expansion of self-governance compacts and self-determination contracts in a manner consistent with DOI's fiduciary responsibilities.
3.2. Probate and estate administration. Consistently prioritize and quickly resolve probate and estate administration cases to effectively meet asset management and beneficiary service requirements.
3.3. Title, realty, and administrative information. Develop, maintain, and make readily available accurate and current asset ownership and administrative information managed to professional fiduciary standards

3. How should Beneficiaries be involved in this process?

Beneficiary Involvement
Beneficiary may supply additional documentation, provide testimony, raise an argument, file briefs, request a hearing after they review the proposed decision and/or file an appeal.



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4. Organizations, Offices and Roles. Identify the organizations that should be involved in performing the process.

4.1 DOI Organizations. Identify the DOI organizations, offices and roles that contribute to this process.

DOI organizations include the Office of the Secretary, BIA, OST, BLM, MMS, OHA, OSM among others.

Offices include Central Offices, Regional Offices, Agency(Field) Offices, etc.

Using the CTM, Appendix D, identify and describe each role that contributes to the execution of the process.

Organization	Office	Role	Contribution
DOI/NBC	OAS		Provide appraisal/valuation when needed
OST	Integrated Servicing Office		When OTFM learns of a death they place the account into estate status which in turn electronically notifies the agency(s) where the decedent had trust/restricted assets.
OST	Integrated Servicing Office		Relays Customer needs to the Office of Trust Adjudication
BIA	Integrated Servicing Office		Relays Customer needs to the Office of Trust Adjudication
BIA	Integrated Servicing Office		Relays Customer needs to the Office of Trust Adjudication
BIA	Agency/Region/ Tribe		Assistance to Deciding Official in obtaining any additional information or documents not already in the probate package. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.



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Organization	Office	Role	Contribution
Office of Trust Adjudication	Regional		<p>Review the probate file and make a determination if the case qualifies as a records based probate. Also, if a will or wills are involved and they appear to be self proved then mail the last one to perspective beneficiaries and let them decide if it is valid or they want to request a hearing.</p> <p>Hold hearings.</p> <p>Legal and factual research and draft decision and review. Also, review the draft decision and issue final decision. Contacts by phone to interested parties (answering questions).</p> <p>Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.</p>
Tribes	Applicable Tribal office.		<p>For compacted and contracting Tribes that have assumed this responsibility, the Tribe performs all DOI functions except those considered inherently federal.</p> <p>Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.</p>



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Organization	Office	Role	Contribution
Office of Trust Adjudication	Regional		<p>Certifying the mailing date, confirmation that all interested parties were mailed the decision, Transcribe the audio tape of the hearing, research, contact by phone for additional information and answering questions from interested parties.</p> <p>Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.</p>
Office of Trust Adjudication	Regional		<p>Mailing of the proposed decision to all interested parties which includes – perspective heirs should receive at a minimum OHA 7, Inventories, death certificate and the last will if one is involved. Claimants should receive only the decision. Also, to all agencies that the decedent and interested parties were affiliated. And all agencies were the decedent owned land. The system automatically generates a list of those to receive notice and addresses.</p> <p>Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.</p>
BIA	Land and Natural Resource Use and Management		Provide Assistance to Judge with relevant information or testimony.
BIA	Land and Natural Resource Planning		Provide Assistance to Judge with relevant information or testimony.



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Organization	Office	Role	Contribution
BIA	Beneficiary Relationship and Development Management		Provide Assistance to Judge with relevant information or testimony.
BIA	Programs (Forestry, Social Services, BIA Schools, etc.)		Provide Assistance to Judge with relevant information or testimony.
Office of Trust Adjudication	Regional		Provide legal support services for the judge. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.
OHA	IBIA		They are authorized by the Secretary to hear, consider, and determine finally for the Department appeals taken by aggrieved parties from actions by OHA deciding officials on petitions for rehearing or reopening, and allowance of attorney fees, and from actions of BIA officials as provided in Sec. 4.1(b)(2). Decision on an Interlocutory appeal from a judge.
Office of Trust Adjudication	Regional		Legal and factual research and draft decision contact by phone to interested parties (answering questions) Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.



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4.2 Non-DOI Organizations. Identify the non-DOI organizations that support the execution or contribute to this process.

Non-DOI Organization	Contribution
State Vital Statistics Offices	Vital Statistics Documents.

5. Event(s) Identify the events or conditions that start the process. Describe each event and indicate the frequency (daily, monthly, quarterly, etc.) in which each event is expected to occur. An event may be an external interaction (a beneficiary submits an application), the expiration of a period of time (a lease is due to expire in 90 days), or the realization of some pre-defined threshold (an IIM account reaches the automatic disbursement threshold).

Event	Description	Estimated Frequency
Receipt of Probate File	Probate file is transferred from Prepare Probate Case for Review.	

6. Inputs and Outputs. Identify and describe all inputs and outputs related to this process. Inputs are information or materials used during the execution of the process; outputs are materials or information produced by the process.

6.1 Inputs

Input	Description
Probate File	All the information with any needed documentation to determine the heirs of the estate and a proposed decision.
Tribal Purchase options	Resolution from the Tribe expressing intent to purchase property in an estate.
Interim orders	Judges orders taking an action that affects the estate before the final decision.
Ruling on a Motion	Decision on the request for a ruling
Testimony	Sworn testimony given at the hearing to determine the facts and help the Deciding Official make a decision.
Internet legal resources	On-line legal research sites, both subscription and free.
Electronic People searches	On-line people searches, both subscription and free. Utilize all existing research services.



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Input	Description
Notes produced from Judges research	These are notes that help identify issues, resolve issues and assist in drafting the final decision. These are personal notes that will not be in the final record.
Briefs	Written statement prepared by an attorney or interested party to be presented as evidence to the judge. May be a request for a rehearing or additional evidence not submitted at the hearing
Motions	Request for a ruling from the judge on a pertinent issue
Interpretation of judges' instructions/questions and testimony by an interpreter.	For non-English speaking Indians an interpreter is needed to interpret the judges instructions/questions and their testimony
Testimony and other Evidence	Sworn testimony given at the hearing to determine the facts and help the Deciding Official make a decision.
Briefs	Written statement prepared by an attorney or interested party to be presented as argument to the judge.
EAR (Estate Asset Report)	A certified report from the integrated trust data system that contains all trust assets of a beneficiary.



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6.2 Outputs

Output	Description
Released for hearing or mailing	When a decision is made on the type of probate to be done the electronic probate file is released to the appropriate process (mailed or hold hearing).
Posting and publication for the death	Public notice at the decedents home agency and where they lived if different from the home agency.
Probate File	All the information and any needed documentation to make a final decision.
Proposed Decision	Informs parties of the proposed distribution according to the will; In intestate cases, determines the heirs and their shares; proposes a ruling of any claims.
Final Decision	Electronic probate decision, which includes the EAR, and hardcopy mailings to interested parties. When a final decision is made is released to LTRO and all involved Agency/Tribal offices.
Transcript	Written record of the hearing. This is certified accurate by the transcriber.
Ruling on a Motion	Decision on the request for a ruling

7. Fiduciary and Legal Obligations and Controls

7.1 Obligations

Identify and describe the legal and fiduciary obligations that impact this process. For each obligation, indicate the document or commitment that defines the obligation and the citation (paragraph or section) within the document that pertains to this process.

Obligation	Source	Business Impact
25 CFR 15		Change and combine with 43 CFR 4 to accommodate the new process.
43 CFR 4		Change and combine with 25 CFR 15 to accommodate the new process.
25 CFR Part 17		Action of will on Osage
25 CFR Part 16		Estates of Indians of the Five Civilized Tribes
5 USC 552 (FOIA)		Freedom of Information Act



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Obligation	Source	Business Impact
5 USC 552a (Privacy Act)		Provides for the protection and accuracy of information about individuals.
5 USC 554 – 557		Administrative Procedures Act (APA) to ensure due process during the probate process.
Babbitt v. Youpee		The court decision finding ILCA unconstitutional because heirs of trust property that was escheated to Tribes were not compensated. This has and will continue to have a significant impact on probate.
Indian Land Consolidation Act (ILCA) of 1984, Amended 2000		The Indian Land Consolidation Act was passed to prevent further fractionation and to consolidate fractional interests in allotted lands. When there are no eligible heirs, land can be purchased by a co-owner or by the tribe in an effort to reduce fractionation and emphasize tribal sovereignty. ILCA also, in defining the term Indian, redefines who is eligible to hold land in Trust and cash. Has not been implemented and may be replaced by another amendment to ILCA.
25 USC 372 - General Allotment Act		Sec. 372. Ascertainment of heirs of deceased allottees; settlement of estates; sale of lands; deposit of Indian moneys If we want to include land in the expedited probate this might have to be changed (provide notice and hearing).
25 USC 355		Five Civilized Tribes act that commits the probates to state district court. May be amended by a proposed Five Nations Citizens Land Reform Act which would make DOI responsible for the probate of Five Nation beneficiaries trust/restricted estates.
25 USC 331		Osage authority to do Inter vivos trusts and state court to do Osage probates.
25 USC 373		Disposal by will of allotments held under trust.
25 USC 373(a)		Disposition of trust or restricted estate of intestate without heirs; successor tribe; sale of land.
25 USC 373(b)		Descent and distribution for restricted estate or homestead on the public domain
25 USC 372a.		Heirs by adoption



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Obligation	Source	Business Impact
25 USC 374		Attendance of witnesses – authority for judges to require attendance of witnesses at hearings to determine the heirs of decedents, held in accordance with sections 372 and 373.
25 USC 375		Determination of heirship of deceased members of Five Civilized Tribes
25 USC 375(a)		Jurisdiction of Secretary of the Interior over probate and distribution of estates not exceeding \$2,500 for the Five Civilized Tribes of Oklahoma.
25 USC 375(c)		Disbursement of sums not exceeding \$500 to heirs or legatees for the Five Civilized Tribes of Oklahoma.
25 USC 375(d)		Disposition of estates of intestate members of Cherokee, Creek, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs. Land will escheat back to the Tribe with jurisdiction.
25 USC 376		After August 1, 1914, any officer or employee appointed or designated by the Secretary of the Interior or the Commissioner of Indian Affairs as special examiner in heirship cases shall be authorized to administer oaths in investigations committed to him: Does not apply to Osage Indians nor to the Five Civilized Tribes of Indians in Oklahoma.
25 USC 378		Partition of allotment among heirs - If the Secretary of the Interior shall find that any inherited trust allotment or allotments are capable of partition to the advantage of the heirs, he may cause such lands to be partitioned among them, regardless of their competency, patents in fee to be issued to the competent heirs for their shares and trust patents to be issued to the incompetent heirs for the lands respectively or jointly set apart to them, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent.
25 USC 379		Sale of allotted lands by heirs.



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Obligation	Source	Business Impact
25 USC 356		Allowance of undisputed claims of restricted allottees of Five Civilized Tribes- No undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval, but all such undisputed claims or uncontested leases (except oil and gas leases) shall be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma: Provided, however, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma may appeal from the same to the Secretary of the Interior within thirty days from the date of said decision or order.
Tribal Probate Codes	Tribal Law	Approved Tribal Probate codes to be used in distributing trust assets in an estate.
Uniform Indian Probate Code	Law	One Indian Probate Code that supercedes all state codes now used.



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7.2 Controls

Identify and describe any controls (enforcement mechanisms) that may be used to ensure that the process adheres to obligations and internal process requirements. Controls may be reviews, audits, segregated duties, etc. Indicate the reason that each control should be introduced (name the obligation that a control is intended to enforce; indicate any controls required to ensure consistency or reliability).

Control	Reason	Description
Estate Probate Program	To assure the probate file has complete and accurate information. This would mitigate to a great degree the risk of basing the probate decision on the record.	Workflow management tool that guides user through a probate. It is capable of prompting the user to ask additional questions based on previous answers supplied and/or requesting the proper documentation to verify answers given. It is capable of generating any forms/letters needed to probate the estate and generates a proposed decision based on the input. It is a seamless tool that flows from one sub process to the next electronically.
BIA Title	Reviews for accuracy when received	Review of the probate decision and any resulting conveyance documents by the Title Examiner with a 17 point checklist.
BIA/Tribal Line Official concurrence and release to Adjudication	Quality assurance	BIA/Tribal Line Official checks for accuracy based on his personal knowledge and this also provides the Deciding Official with a contact when there are consistent problems with submitted packages.
Review of Proposed Decision O.3.2.1	To assure the file is complete for either an expedited probate of a hearing	This is the first step in Adjudicate Case. It is a review of the probate file by a staff attorney in the Office of Trust Adjudication to assure there are no additional issues that can be addressed upfront with documentation.
Interested Parties review of proposed records based decision (mailed)	To assure the proposed records based decision is accurate.	To assure they receive due process and have the opportunity to review for accuracy the proposed records based decision.
Judges Review in the Review Probate File Process	To assure that the probate conforms to expedited process	Judges review when received from Prepare Case. The Judge reviews the probate file for completeness and accuracy. If no apparent issues of fact are present it is recommended for a proposed records based decision.



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Control	Reason	Description
Foreign Agencies that receive the proposed decision	To assure all agencies that are affected by the probate have the opportunity to review the proposed decision for accuracy.	When the proposed records based decision is received by foreign agencies it is reviewed for accuracy.
Notes and Tapes	To assure the judge can recall all hearing facts	A tape recording is made during the hearing.
Appeal	Constitutionally guaranteed due process	An appeal will result in a decision being affirmed reversed or remanded for further development.
Title	Reviews for accuracy when received	When the decision is received from the Judge the title examiner reviews the decision for errors and when the appeal period expires without any appeals they make any needed modifications.
OST	Reviews for accuracy when received	When the decision is received at OTFM for funds distribution they review the distribution for accuracy.
LTRO Recording documents at the Agency within 24-48 hours of approval.	To prevent EAR's from being issued when there are pending documents that will effect title	When a Title effecting document is started at the agency a document number is issued from the Title database with identifying information (allotment #, owner ID, etc.). The documents are associated with allotments and the system will not allow a certified TSR from being issued with a pending Title effecting document in the LTRO queue.
Appeal to IBIA	To assure conformance with the law	An appeal will result in a decision being affirmed reversed or remanded for further development.
BIA Title	Reviews for accuracy when received	When the decision is received from Office of Trust Adjudication the ownership changes undergo a review at the LTRO.
Probate Specialist, BRDM, Judge, Superintendent can lock the system if there is an appeal filed.	To assure no conveyances, ownership changes or funds are distributed if there is a timely appeal filed.	They have the authorization to lock the electronic probate to prevent any distribution should an appeal be filed before the expiration of the appeal period.



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Control	Reason	Description
Financial Operations Review	Reviews for accuracy when received.	When the decision is received at OTFM for funds distribution they review the distribution for accuracy.
Conveyances Review	Receive and Review for application request	If the decision results in a conveyance, the conveyance process will review for accuracy of the documents required to make the conveyance.

- 8. Mechanisms (Systems of Record)** Identify the mechanisms, or systems, that are needed to support the process (ex: Ownership, Leasing, Workflow Management, Office Filing System, etc.). Indicate the information and activities, relevant to this process, that each system supports.

System Name	Support
Integrated Data	Information system containing all trust data
Estate Probate Program	Workflow management tool that guides user through a probate. It is capable of prompting the user to ask additional questions based on previous answers supplied and/or requesting the proper documentation to verify answers given. It is capable of generating any forms/letters needed to probate the estate and generates a proposed decision based on the input. It is a seamless tool that flows from one sub process to the next electronically.
Imaging Equipment	To image/microfilm documents of all hardcopy files at the submitting offices.
Hardcopy Records	Original probate records used to develop the electronic files.
Mailing Equipment	To expedite large mailings.
Court reporting equipment	Use of current technology for use at hearings.
Lap Tops & Printers	To generate decision immediately at the hearing when possible.
Law Library	Could be on-line (subscription and non-subscription), university library, office library etc.



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9. Inter-Process Relationships Identify other trust processes that are related to this process (either predecessors or successors). If applicable, indicate the condition under which the processes are related.

9.1 Predecessors. Predecessors are processes that either produce information required by this process or that result in the need to execute this process.

Process No.	Name	Condition of Relationship
O.3.1	Prepare Probate Case	When Prepare Case process has a completed probate file it is transferred to Review of Proposed Decision.
O.3.2.1	Review of Probate File	Probates that meet certain criteria qualify as a proposed records based decision and are mailed to interested parties. Probates that did not meet criteria for an expedited probate are assigned to a Judge for a hearing.
O.3.2.2	Mail Proposed Decision	A hearing may be required as a result of a Beneficiary requesting a hearing when they disagree with the mailed records based decision. If no request for a hearing has been made at the expiration of the 30 after mailing the final decision is issued.
O.3.2.3	Hold Hearing	After the hearing has been conducted all information gathered is used to develop and make a decision.
O.3.2.4	Finalize Decision	After the hearing has been conducted all information gathered is used to develop and make a decision.
O.3.2.5	Consider Appeals	An appeal may result in another hearing.

9.2 Successors. Successors are processes that either use information produced by this process or that must be executed as a result of performing this process.

Process No.	Name	Condition of Relationship
O.3.1	Prepare Case	If the probate file is reviewed in Review of Probate File and needs additional information it may be returned to Prepare Probate Case. This should be minimal with the use of the Probate workflow tool that will not allow the release of the probate file until all resources for information have been attempted.



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Process No.	Name	Condition of Relationship
O.3.2.2	Mail Proposed Decision	After review of the probate file all probates that have no questions of fact or law qualify as an expedited probate and are mailed to interested parties. If at the end of 30 days no hearing has been requested the decision becomes final.
O.3.2.3	Hold Hearing	If an interested party requests a hearing or the judge determines a hearing is required. If the judge's decision is to re-hear the probate.
O.3.2.4	Finalize Decision	If no hearing is requested in the timeframe specified the proposed records based decision is forwarded to finalize decision. This is the review of all testimony, documents introduced at the hearing, probate file and the application of the law to facts. It may require a request for additional information either from the Beneficiary or other existing research services. It will end when a final decision is drafted (edited draft decision from Prepare Probate Case), transcript prepared and the appeal period expires. If the electronic record is altered at the hearing or during finalize decision the system should assure the altered parts of the electronic probate are printed and added to the original record at the agency/field/Tribal office.
O.3.2.5	Consider Appeals	If an appeal is made this process is started.
O.3.3	Close Probate Case	This process distributes the decision to the appropriate offices so that accounts can be opened, funds distributed and ownership changes made. If the judge's decision is to deny a re-hearing.
O.4.2	Receipt of Recorded Documents and Update Title	Documents related to Title changes are encoded and recorded.
B.5.1	Conduct Outreach Activity	When probate staff identifies a problem with the Prepare Probate Case that can be resolved by a BRDM outreach they will work with BRDM to develop an outreach activity.
B.5.2	Post Outreach Activity	After an outreach activity the probate staff will analyze the effectiveness of the activity.



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10. Comments *Summarize any discussion, problems, issues or recommendations that should be considered when reviewing process performance. Category Values (Note, Best Practice, Decision, Problem, Issue, Recommendation)*

Category	Comment